

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

GILBERTO LOPEZ,

Plaintiff,

NO. CV-12-3053-EFS

vs.

**ORDER DISMISSING COMPLAINT AND  
CLOSING FILE**

DSHS; JOHN CLAYTON,  
Assistant Secretary,

## Defendants.

By Order filed November 14, 2012, the Court advised Plaintiff Gilberto Lopez of the deficiencies of his Complaint and granted him leave to amend. ECF No. [5](#). He is proceeding *pro se* and *in forma pauperis*; Defendants have not been served.

In his Complaint, Plaintiff alleged a number of claims against Defendants, including 1) a claim for declaratory judgment establishing Plaintiff's United States citizenship, 2) a claim that Defendants acted ultra vires in determining Plaintiff's citizenship for the purpose of determining eligibility for receipt of public benefits, 3) a procedural due process claim arising from Plaintiff's benefits-termination hearing, and 4) a claim that Defendants improperly relied on insufficient evidence in terminating Plaintiff's public assistance benefits.

With respect to the first cause of action, the Court found that Plaintiff validly stated a claim but that he named an improper defendant; thus, the Court found that he failed to state a claim upon

1 which relief could be granted. Similarly, the Court found that the  
2 second cause of action also failed to state a claim upon which relief  
3 could be granted. As to the third and fourth claims, the Court found  
4 that Plaintiff pled insufficient facts to support his claims, but that  
5 if given the opportunity to amend his Complaint, he could rectify that  
6 failure.

7 Although the Court provided Plaintiff with sixty (60) days to amend  
8 his Complaint, Plaintiff did not do so. Therefore, for the reasons set  
9 forth in the Court's prior Order, ECF No. 5, the Court now dismisses  
10 Plaintiff's Complaint. **The Court certifies any appeal of this dismissal  
11 would not be taken in good faith.**

12 Accordingly, **IT IS HEREBY ORDERED:**

13 1. The Complaint, ECF No. 5, is **DISMISSED WITH PREJUDICE**.

14 2. The Clerk's Office is directed to **ENTER JUDGMENT** in favor of  
15 Defendants.

16 3. All pending hearings, deadlines, and motions are **STRICKEN**.

17 4. This file shall be **CLOSED**.

18 **IT IS SO ORDERED.** The Clerk's Office is directed to enter this  
19 Order and provide copies to Plaintiff at his last known address.

20 **DATED** this 16<sup>th</sup> day of January 2013.

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23 S/ Edward F. Shea  
EDWARD F. SHEA  
24 Senior United States District Judge  
25  
26  
27 Q:\EFS\Civil\2012\3053.dismiss.close.lc2.wpd  
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